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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/511,567	Applicant(s) HOOGLAND, HENDRICUS ANTONIUS	
	Examiner /Stephen J. Castellano/	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1-13-5</u> . | 6) <input type="checkbox"/> Other: _____ |

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Applicant's election with traverse of claims 1-18 in the reply filed on August 4, 2009 is acknowledged. The traversal is on the ground(s) that the mold of claims 19-20 is adapted for injection molding a collapsible container with living hinges. This is not found persuasive because product claims 1-18 can be manufactured without an injection molding mold. For example, the collapsible container could be manufactured from a rigid sheet material that is creased or compressed in areas of a fold to form the collapsible and foldable container. Claim 19 requires a mold having two sidewall forming parts with means for forming third hinge elements. Claim 1 is not required to have a third hinging element and is not required to be formed in a mold.

The requirement is still deemed proper and is therefore made FINAL.

Claims 19-21 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 4, 2009.

Applicant's election without traverse of Specie C: Fig. 6 in the reply filed on August 4, 2009 is acknowledged. Applicant states that claims 1-18 read on Specie C. However, claim 7 is not proper as it requires each second wall surface (the second wall surface is bounded by the fourth and third hinging elements as stated in claim 5) is substantially a quadrangle. A quadrangle has four sides rather than three. The second wall surfaces in Fig. 6 are triangles. Claim 7 has been withdrawn.

Claim 18 requires a shape that is "truncated cone-or pyramid- shaped." Fig. 6 is believed to be a different shape. Applicant must explain why claim 18 was chosen as having a shape that

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is defined by Specie C: Fig. 6. If applicant's explanation is not adequate, claim 18 will be withdrawn.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "12" has been used to designate both a hinging element having the configuration shown in Fig. 1 and 4 and a hinging element having the configuration shown in Fig. 6 and 16. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. The hinging element 12 shown in Fig. 1 and 4 may have the same name and reference numeral. However, hinging element 12 shown in Fig. 6 and 16 is different from that of hinging element 12 shown in Fig. 1 and 4. Reference numeral 12 should be changed in Fig. 6 and 16. The specification should be revised to be consistent with what is shown in the drawing figures.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "26" has been used to designate both an axial line along the bottom in Fig. 2 and a hinge element that extends vertically along the sidewall in Fig. 4, 6, 7, 15, 16. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include

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all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 and 8-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the sidewalls" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the bottom" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 is indefinite because the metes and bounds of the claim can't be determined by the "while each time, ..." phrase. Is this phrase broad in meaning such that one first sidewall is connected to a second sidewall (only one second hinging element for four-sided container). Does it mean: each first sidewall (of the two first sidewalls) connects to a second sidewall (two second sidewalls) by a second hinging element? Thus, there only need to be two second hinging elements. Does it mean: each connection of a first sidewall with a second sidewall? Thus, four second hinging elements required.

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Claim 3 is dependent on claim 1. Neither claim 1 or 3 recites a first hinging element. Claim 3 is indefinite because it can't be determined if only two kinds of hinging elements or three kinds of hinging elements are required.

This description doesn't differentiate the third hinging element from the first hinging element. Claim 3 is indefinite because this discussion of a third hinging element doesn't limit claim 3.

Claim 3 recites the limitation "the first sidewalls" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites: "in folded-out condition." A folded condition is a collapsed condition and an expanded condition is a condition wherein the container has a maximum internal volume. It can't be determined if "folded-out" refers to expanded or collapsed (folded) condition. Applicant may use the words expanded or erected to describe the container wherein these words will not be deemed new matter. Claims 13, 14, 18 are similarly indefinite.

In claim 4, the description of the fourth hinging element as extending at right angles to the bottom surface. This description doesn't differentiate the fourth hinging element from the second hinging element. Claim 4 is indefinite because this discussion of a fourth hinging element doesn't limit claim 4.

In claim 4, lines 4 and 5, the intersection is claimed as being "between the bottom surface and the or third hinging element." First, the "and the or" language can't be comprehended. Does it mean: "and/or," "and," "or." Second, if the language means "or," as in between the bottom or a third hinging element. Then, only one vector has been specified for the intersection, the bottom or the third element. This doesn't specify a point or line of intersection. Third, claim 4

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recites the limitation "the bottom surface" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim. Fourth, if the intersection is in anyway being defined by the third hinging element, it is inappropriate because this part of the claim describes the position of the third hinging element. How can you determine the position of an element by describing an alleged intersection of that element with itself?

Claim 4 refers to "at least two third hinging elements." This is a double inclusion. Claim 3 introduced the third hinging elements. Claim 4 should state: "the" or "said" third hinging elements. It can't be determined if applicant is referring to the same third elements introduced in claim 3 or two a different set of hinging elements.

Claim 9 is indefinite because the third, fourth and fifth hinging elements are described without reference to the second hinging elements. Claim 9 sets forth the position of the fifth hinge element with reference to the first, third and fourth hinge elements without defining the position of the first, third and fourth hinge elements.

Claim 10 recites the limitation "the bottom surface" bridging lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim. Claim 10 establishes two first bottom surfaces when a bottom surface is already established. If the first bottom surfaces are portions of the entire bottom surface, this should be stated.

Claim 12 recites the limitation "each first sidewall" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 15 and 16 recite awkward language referring to placement, design and direction of hinging. It can't be determined what this claim limits: This limitation may be a positive limitation or it may be a functional recitation of intended use.

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Claim 17 recites the limitation "the first and second walls" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recited the limitation "truncated cone-or pyramid- shaped." The limitation is indecipherable.

The art is applied insofar as these claims are understood. Claims 3-12 are exceptionally indefinite.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8-12 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Potts et al. (6206224) (Potts).

Potts discloses a collapsible container manufactured from plastic (NYLON) having a plurality of compartments, each compartment has a structure which reads on the collapsible container limitations, each compartment is manufactured from plastic having integrated hinges, the container has two rigid sidewalls (110, 112), two flexible foldable sidewalls 116, 118 and flexible bottom 120. The sidewalls are pivotally connected to each other and the bottom.

The folding lines or hinge elements similar to those claimed are clearly shown in Fig. 1-6 and 8 of Potts.

Re claim 6, select an equilateral triangle shaped surface from the sidewall (116 or 118) enclosed by fourth, first and second hinging elements to define each first wall surface. This surface doesn't need to extend the full height of the container.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Potts.

By modifying the height of the container/compartment to be equal to one-half the width (length of sidewall 116 or 118), the first wall surface will be an equilateral triangle. It would have been obvious to modify the height of the container/compartment to be equal to one-half the width to hold and cover an object of these relative dimensions without the unnecessary waste of container material. The equilateral triangle will extend the full height of the container.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potts in view of Coughlin et al. (4014292).

Potts discloses the invention except for the ability to contain liquid or a water-tight construction. Coughlin teaches a collapsible container made with a water-tight construction. It would've been obvious to modify the construction to be water-tight to allow spills or leakage to be contained within Potts' collapsible container so that a surface or car trunk doesn't become soiled with the leakage or spillage.

Re claim 14, a living hinge wherein the hinge is molded homogeneously of the same wall material of the container is a type of film hinge. Film hinges of separate construction which are first formed then connected to wall material are well known in the art. It would have been obvious to form a separate film hinge in order to apply a hinge material of first characteristic and quality to a wall panel of second different characteristics and quality to enhance the design by

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using hinge materials only at the hinge. This eliminates waste and added cost and benefits the design by strengthening the hinge and allowing the wall panel to be strong, light and inexpensive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Stephen J. Castellano/ whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/
Primary Examiner
Art Unit 3781

sjc